

# HOUSE BILL 556

C2

11r0922

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By: **Delegate Clagett**

Introduced and read first time: February 8, 2011

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Cemeteries – Forfeited Rights to Interment**

3 FOR the purpose of authorizing a cemetery to initiate proceedings for the forfeiture of  
4 the right to interment under certain circumstances; requiring a cemetery that  
5 initiates proceedings for the forfeiture of the right to interment to provide  
6 certain notice; authorizing an owner or a family member of the owner of a right  
7 to interment to suspend certain forfeiture proceedings in a certain manner;  
8 establishing that an unused right to interment is forfeited within a certain  
9 period of time under certain circumstances; granting certain remedies to the  
10 owner or an individual entitled to use an interment that has been forfeited;  
11 providing for the application of this Act; and generally relating to forfeiting  
12 rights to interment in cemeteries.

13 BY repealing and reenacting, without amendments,  
14 Article – Business Regulation  
15 Section 5–101(a), (d), (g), (l), (m), (n), and (t)  
16 Annotated Code of Maryland  
17 (2010 Replacement Volume and 2010 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Business Regulation  
20 Section 5–503  
21 Annotated Code of Maryland  
22 (2010 Replacement Volume and 2010 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Business Regulation**

26 5–101.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (a) In this title the following words have the meanings indicated.
- 2 (d) (1) “Cemetery” means land used or to be used for interment.
- 3 (2) “Cemetery” includes a structure used or to be used for interment.
- 4 (g) “Director” means the Director of the Office of Cemetery Oversight.
- 5 (l) “Interment” means all final disposition of human remains, including:
- 6 (1) earth burial;
- 7 (2) mausoleum entombment; and
- 8 (3) niche or columbarium interment.
- 9 (m) “Office” means the Office of Cemetery Oversight.
- 10 (n) “Permit” means a permit issued by the Director to allow a partnership,  
11 limited liability company, or corporation to operate a business through which a  
12 registrant may:
- 13 (1) engage in the operation of a cemetery or crematory; or
- 14 (2) provide burial goods.
- 15 (t) “Registration” means a registration issued by the Director authorizing an  
16 individual to operate a cemetery, to operate a crematory, or to provide burial goods.
- 17 5–503.
- 18 (a) Each burial lot and each crypt sold or conveyed in a cemetery shall be  
19 held by the owner only for the purpose of burial.
- 20 (b) The interest of an owner of a burial lot or crypt that is held for the burial  
21 of the owner or others and not held as an investment is not:
- 22 (1) considered property;
- 23 (2) subject to attachment or execution for debt;
- 24 (3) subject to the insolvency laws of the State;
- 25 (4) to be inventoried in the estate of the owner; or
- 26 (5) subject to inheritance taxes.

1 (c) The interest of an owner of a burial lot or crypt that is held as an  
2 investment and not held for the burial of the owner or others is:

- 3 (1) considered personal property;
- 4 (2) subject to attachment or execution for debt;
- 5 (3) subject to the insolvency laws of the State;
- 6 (4) to be inventoried in the estate of the owner; and
- 7 (5) subject to inheritance taxes.

8 (d) Subject to the rules of the cemetery owner and to the terms of any  
9 contract made with the cemetery owner, the interest of an owner of a burial lot or  
10 crypt:

- 11 (1) may be disposed of during the lifetime of the owner of the burial lot  
12 or crypt with the consent of the cemetery owner;
- 13 (2) may be disposed of by specific reference in the will of the owner;  
14 and
- 15 (3) otherwise passes to the heirs of the owner, as defined in § 1–101 of  
16 the Estates and Trusts Article.

17 **(E) (1) THIS SUBSECTION APPLIES ONLY TO A RIGHT TO INTERMENT**  
18 **IN A CEMETERY THAT HAS:**

19 **(I) A PERPETUAL CARE TRUST FUND; AND**

20 **(II) A PERMIT OR REGISTRATION FROM THE DIRECTOR.**

21 **(2) A CEMETERY SUBJECT TO THIS SUBSECTION MAY INITIATE**  
22 **PROCEEDINGS FOR THE FORFEITURE OF THE RIGHT TO INTERMENT IN THE**  
23 **CEMETERY IF:**

24 **(I) THE INTERMENT RIGHT HAS NOT BEEN USED; AND**

25 **(II) IT HAS BEEN AT LEAST 50 YEARS SINCE THE LAST**  
26 **INSTRUCTION AS TO USE WAS RECEIVED BY THE CEMETERY FROM THE OWNER**  
27 **OR A MEMBER OF THE FAMILY OF THE OWNER.**

28 **(3) A CEMETERY THAT INITIATES FORFEITURE PROCEEDINGS**  
29 **UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL:**

1                   **(I) SEND BY CERTIFIED MAIL, RETURN RECEIPT**  
2 **REQUESTED, TO THE OWNER AND, IF THE OWNER IS DECEASED, TO ALL KNOWN**  
3 **MEMBERS OF THE FAMILY OF THE OWNER, NOTICE OF INTENT TO TERMINATE**  
4 **THE RIGHT TO USE THE IDENTIFIED INTERMENT SPACE; AND**

5                   **(II) PLACE IN A LOCAL NEWSPAPER ON THE SAME DAY FOR 2**  
6 **CONSECUTIVE WEEKS AN ADVERTISEMENT THAT NOTIFIES BY NAME AND**  
7 **ADDRESS THE OWNER OF THE RIGHT TO INTERMENT THAT WILL BE DECLARED**  
8 **FORFEITED.**

9                   **(4) (I) THE OWNER OR A MEMBER OF THE FAMILY OF THE**  
10 **OWNER OF A RIGHT TO INTERMENT MAY SUSPEND A FORFEITURE PROCEEDING**  
11 **UNDER THIS SUBSECTION BY NOTIFYING THE CEMETERY IN WRITING OF THE**  
12 **INTENT TO USE THE INTERMENT SPACE.**

13                   **(II) A WRITTEN RESPONSE TO THE CEMETERY BY THE**  
14 **OWNER OR A MEMBER OF THE FAMILY OF THE OWNER TERMINATES A**  
15 **FORFEITURE PROCEEDING UNDER THIS SUBSECTION FOR AT LEAST 50 YEARS.**

16                   **(5) AN UNUSED RIGHT TO INTERMENT IS FORFEITED TO THE**  
17 **CEMETERY THAT INITIATED PROCEEDINGS UNDER PARAGRAPH (2) OF THIS**  
18 **SUBSECTION IF NO RESPONSE IS RECEIVED BY THE CEMETERY WITHIN 60 DAYS**  
19 **AFTER NOTICE IS GIVEN UNDER PARAGRAPH (3) OF THIS SUBSECTION.**

20                   **(6) IF THE OWNER OF A RIGHT TO INTERMENT OR AN INDIVIDUAL**  
21 **ENTITLED TO USE A RIGHT TO INTERMENT THAT HAS BEEN FORFEITED UNDER**  
22 **THIS SUBSECTION DEMANDS THE RIGHT TO USE THE INTERMENT AND THE**  
23 **INTERMENT SPACE IS NO LONGER AVAILABLE, THE CEMETERY SHALL PROVIDE**  
24 **TO THE OWNER OR INDIVIDUAL THE CHOICE OF:**

25                   **(I) A REPLACEMENT RIGHT TO INTERMENT; OR**

26                   **(II) A REFUND OF THE ORIGINAL AMOUNT PAID FOR THE**  
27 **RIGHT TO INTERMENT.**

28                   **(7) A RIGHT TO INTERMENT FORFEITED UNDER THIS**  
29 **SUBSECTION IS SUBJECT TO ALL APPLICABLE REQUIREMENTS FOR PERPETUAL**  
30 **CARE.**

31                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2011.